

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: John W. and Barbara Sumrow)
Dist. 3, Map 139, Control Map 139, Parcel 24.01,) Lauderdale County
S.I. 000)
Farm Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$295,200	\$26,600	\$321,800	\$ -
USE	\$174,100	\$26,600	\$200,700	\$50,175

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 24, 2007 in Ripley, Tennessee. In attendance at the hearing were Mr. and Mrs. Sumrow, the appellants, Jerry Buckner, Lauderdale County Property Assessor, and Bryan Kinsey, TCA, the regional appraisal supervisor for the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 237 acre farm located on Henry Moorer Road in Henning, Tennessee in the Hatchie River bottom area. Subject acreage is currently appraised at \$1,246 per acre for market value purposes.

The taxpayers contended that subject property should be valued at \$214,900 as it was prior to the 2006 countywide reappraisal. In support of this position, the taxpayers argued that the 2006 reappraisal program caused the appraisal of subject property to increase excessively in absolute terms and in relation to nearby farms. In addition, the taxpayers maintained that subject property experiences a diminution in value because most of the acreage floods each year due to the proximity of the Hatchie River. Moreover, the taxpayers noted that they purchased subject property in 1976 for \$153,000. Finally, the taxpayers testified concerning the sale a 200 acre farm on Barfield Road for \$1,000 per acre.

The assessor contended that subject property should remain valued at \$321,800. In support of this position, the testimony and written analysis of Mr. Kinsey was offered into evidence. Mr. Kinsey maintained that the loss in value caused by flooding has been accounted for by utilizing low-end to middle grade land classes for Lauderdale County (rotation and pasture) and utilizing condition factors of 85% and 95% for the open land and wooded acreage. Mr. Kinsey asserted that the resulting appraised value of \$1,246 per acre

reflects subject property's market value as evidenced by the three comparable sales analyzed in his report.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject land should be valued at \$1,046 per acre or \$247,800 for market value purposes. This results in a revised use value of \$146,400.

Since the taxpayer is appealing from the determination of the Lauderdale County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.¹ The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

The administrative judge finds that the fair market value of subject farm as of January 1, 2006 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

¹ See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. The administrative judge finds the Commission's reasoning equally applicable to a farm.

The administrative judge finds that Mr. Kinsey's comparable sales should initially receive greatest weight.² However, the administrative judge finds that Mr. Sumrow was actually most familiar with the comparables because his son either owns or farms them.

The administrative judge finds Mr. Kinsey characterized sale #1 as "somewhat superior" to subject property despite selling for \$1,962 per acre. Respectfully, the administrative judge finds that Mr. Sumrow's testimony established it is far superior to the subject. The administrative judge finds that unlike the subject all of the acreage can be planted in cotton because it does not flood. Moreover, this comparable has road frontage on three sides and is suitable for numerous building lots. Given these significant differences and the lack of adjustments, the administrative judge finds this sale lacks probative value.

The administrative judge finds comparable #2 sold for \$821 per acre, but is inferior to the subject insofar as it has only 46% open land compared to the subject with 84% open land. The administrative judge finds comparable #3 sold for \$1,177 per acre, but is somewhat superior to the subject because it has more open land, road frontage on two sides and does not flood like the subject.

The administrative judge finds subject property should realistically command more than comparable #2 and less than comparable #3. The administrative judge finds subject property should be appraised by changing the 95% condition factors on the property record card to 80% and the 85% condition factors to 70%. This results in a market land value of \$247,800 or \$1,046 per acre and a use land value of \$146,400 or \$618 per acre.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

² The administrative judge finds that the sale of the 200 acre farm on Barfield Road was an estate sale. Moreover, it appears that the decedent's wife was the buyer.

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$247,800	\$26,600	\$274,400	\$ -
USE	\$146,400	\$26,600	\$173,000	\$43,250

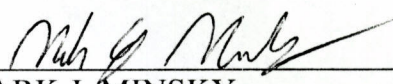
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 2nd day of May, 2007.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: John W. & Barbara Sumrow
 Jerry Buckner, Assessor of Property